

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 15, 2005 (Paper No. 20050505). Upon entry of this response, claims 1-27 are pending in the application. In this response, claims 1, 6-13, 16, and 19-20 have been amended, and claims 23-27 have been added. Applicant respectfully requests that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. Claim Objections

Claims 1, 6, 11, 16, and 19 are objected to because of various informalities related to the preamble. Claims 1, 6, 11, 16, and 19 have been amended. Applicant respectfully submits that the objections have been overcome, and requests that the objection be withdrawn.

2. Rejection of Claim 16 under 35 U.S.C. §112, First Paragraph

Claim 16 has been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Office Action states that “nowhere in the specification does the application teach ‘a trellis state decoder’ nor it clear what the Applicant intends by the language.” Claim 16 has been amended to recite “a trellis state element.” Applicant respectfully submits that the rejection has been overcome, and requests that the rejection be withdrawn.

3. Rejection of Claims 7, 8, 12, and 13 under 35 U.S.C. §112, Second Paragraph

Claims 7, 8, 12, and 13 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. In particular, the Office Action states that “the magnitude of a transmit signal” in claims 7 and 12 has no independent basis. Claims 7 and 12 have been

amended to recite “a transmit signal magnitude.” Applicant respectfully submits that the rejection has been overcome, and requests that the rejection be withdrawn.

4. Rejection of Claims 1-19 for Double Patenting

Claims 1-19 stand rejected under the judicially created doctrine of double patenting over U.S. Patent No. 6,715,124. The Office Action alleges that the claims, if allowed, would improperly extend the “right to exclude” already granted in the patent.

Applicant submits herewith a terminal disclaimer pursuant to 37 C.F.R. §1.321(c), and submits that the rejection has been overcome. Applicant submits the terminal disclaimer solely to advance prosecution of the application, without conceding that the double patenting rejection is properly based. In filing the terminal disclaimer, Applicant relies upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence, or estoppels on the merits of the obviousness issue. See, *e.g.*, *Quad Environmental Tech v. Union Sanitary Dist.*, 946 F.2d 870, 874-875 (Fed. Cir. 1991); and *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

5. Newly Added Claims

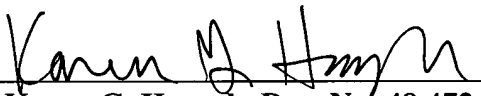
New claims 23-27 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicant submits that no new matter has been added in the new claims, and that new claims 23-27 are allowable over the cited prior art. Specifically, claims 23-27 are allowable because each includes the subject matter of claims 1, 6, 11, 16, 19 (respectively), and claims 1, 6, 11, 16, 19 are allowable for at least the reasons discussed above. Therefore, Applicant requests the Examiner to enter and allow the above new claims.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1-27 be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**

By: 
Karen G. Hazzah, Reg. No. 48,472

100 Galleria Parkway, NW
Suite 1750
Atlanta, Georgia 30339-5948
Tel: (770) 933-9500
Fax: (770) 951-0933